

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

David Magerman,

Plaintiff,

v.

Robert Mercer,

Defendant.

Civil Action No. 2:17-cv-3490

DEFENDANT ROBERT MERCER'S MOTION FOR RULE 11 SANCTIONS

Defendant Robert Mercer respectfully moves the Court to impose sanctions pursuant to Federal Rule of Civil Procedure 11. As more fully set out in the attached memorandum of points and authorities, the Complaint (Doc. 1) violates Rule 11(b)(2)'s bar on frivolous legal claims and contentions, and violates Rule 11(b)(1)'s ban on filing a complaint for "any improper purpose," including harassment.

Pursuant to Rule 11(c)(2), Defendant's counsel provided this motion and the attached memorandum of points and authorities to Plaintiff's counsel on August 14, 2017. On August 31, 2017, Plaintiff's current counsel requested a "short extension of the safe harbor period until September 8," "in order to meaningfully evaluate the Rule 11 Motion." *See* Schwartz Decl. Ex. I. Mercer assented to an extension through 5:00 p.m. on the requested day. *See id.* Magerman refused to withdraw his Complaint.

Accordingly, the Court should award appropriate sanctions pursuant to Rule 11, including reasonable attorneys' fees and costs, and dismiss the Complaint with prejudice.

Dated: September 8, 2017

Respectfully submitted,

/s/ Randy M. Mastro

Randy M. Mastro (*pro hac vice*)

rmastro@gibsondunn.com

Mylan L. Denerstein (*pro hac vice*)

mdenerstein@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, NY 10166-0193

Telephone: 212.351.4000

Facsimile: 212.351.4035

Jason C. Schwartz (*pro hac vice*)

jschwartz@gibsondunn.com

GIBSON, DUNN & CRUTCHER LLP

1050 Connecticut Avenue, N.W.

Washington, DC 20036-5303

Telephone: 202.955.8500

Facsimile: 202.467.0539

Attorneys for Robert Mercer

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of September, 2017, I caused a copy of the foregoing to be served upon all counsel of record via ECF.

/s/ Randy M. Mastro

Randy M. Mastro (*pro hac vice*)